

Pub. Imp. \_\_\_\_\_  
Govt. Grnt. \_\_\_\_\_  
Emer. \_\_\_\_\_  
IPO Required \_\_\_\_\_  
P. Hrngs. \_\_\_\_\_  
Pgs. \_\_\_\_\_  
Filed: 11-4-03

Sponsored by: Manley

First Reading: \_\_\_\_\_

Second Reading: \_\_\_\_\_

COUNCIL BILL NO. 2003 - 363

SPECIAL ORDINANCE NO. \_\_\_\_\_

### AN ORDINANCE

1 AUTHORIZING the City Manager, or the Assistant City Manager, on behalf of the City of  
2 Springfield, to enter into an agreement with Environmental Works, Inc. to install  
3 and maintain wells on public right-of-way for monitoring groundwater  
4 conditions.  
5  
6  
7

10 BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SPRINGFIELD, MISSOURI, as follows:

11 Section 1 - That the City Manager, or the Assistant City Manager, on behalf of the City  
12 of Springfield, Missouri, is hereby authorized to enter into an agreement with Environmental Works,  
13 Inc., said agreement to be substantially in form and content as that document attached hereto and  
14 incorporated herein by reference as Exhibit I.

15  
16 Section 2 - This ordinance shall be in full force and effect from and after passage.  
17

18  
19 Passed at meeting: \_\_\_\_\_  
20

21  
22 \_\_\_\_\_  
23 Mayor  
24

25 Attest: \_\_\_\_\_, City Clerk  
26

27  
28 Approved as to form: \_\_\_\_\_, City Attorney  
29

30  
31 Approved for Council action: \_\_\_\_\_, City Manager  
32

ROUTING ORDER:	(1) ORIGINATING DEPARTMENT	(2) LICENSEE	(3) FINANCE DEPARTMENT
	(4) LAW DEPARTMENT	(5) CITY MANAGER'S OFC.	(6) CITY CLERK'S OFFICE
X ) NEW CONTRACT	( ) RENEWAL OF CONTRACT NO.	CONTRACT NUMBER:	
CITY		LICENSEE	
CITY OF SPRINGFIELD 840 BOONVILLE, PO Box 8368 SPRINGFIELD, MO 65802 PHONE: (417) 864-1645 FAX: (417) 864-1551 ATTN: HOWARD WRIGHT, CITY ATTORNEY		ENVIRONMENTAL WORKS, INC. 1016 W. BATTLEFIELD SPRINGFIELD, MO 65807-4132 PHONE: (417) 890-9500 FAX: (417) 823-9659 ATTN: JASON SMITH, (417) 881-7925 FED. TAX ID No.: 43-1617676	

### LICENSE AGREEMENT FOR MONITORING WELLS

This License Agreement, made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2003, by and between Environmental Works, Inc., a Missouri corporation (hereinafter "Licensee") and the City of Springfield, Missouri, a municipal corporation, (hereinafter "City").

#### WITNESSETH:

Whereas, Licensee, is a Missouri corporation is good standing, with its principal offices at 1016 W. Battlefield, Springfield, Missouri, 65807, and

Whereas, the City of Springfield, Missouri, is the owner of certain street right-of-way located in the 1500 block of West Battlefield in Springfield, Missouri, and

Whereas, Licensee is an environmental consulting firm which provides sampling and analysis services in connection with hazardous releases from underground storage tanks and other sources, and

Whereas, Licensee has been retained by Warren Davis Properties, the owner of a former gasoline service station facility located at 1520 W. Battlefield in Springfield, Missouri, for the purpose of undertaking a site characterization study for monitoring and mitigation of possible contamination from petroleum products in the vicinity of said location, and

Whereas, in order to perform said site characterization a system of monitoring wells needs to be installed, including some wells within the City right-of-way,

NOW, THEREFORE, for and in consideration of the mutual promises and agreements herein contained, it agreed by City and Licensee, as follows:

1. License to Install and Maintain Groundwater Monitor Wells: City hereby grants to Licensee, its employees, subcontractors and agents, a license to enter upon City property for the purpose of installing, testing, repair and maintenance of certain groundwater monitor wells in connection with the site characterization study being performed by Licensee, said monitoring well to be installed as near as feasible to the locations shown on **Exhibit A**, which is attached hereto and incorporated by reference. This license shall commence on the date of the execution of this agreement and shall continue until terminated by either party. Upon termination, all well equipment shall be removed and the wells properly capped and covered by Licensee and the right-of-way premises promptly restored to the satisfaction of City.

2. Location of Monitoring Wells: The monitoring well locations selected by Licensee shall be approved by a designated representative of the City's Department of Public Works prior to installation, who may regulate the time of the work and may require the work to be stopped at any time, in his discretion. Licensee, however, shall have full responsibility for the location of any monitor wells installed. Installation and removal of wells shall be undertaken pursuant to an excavation permit from the

Director of Public Works, subject to the requirements of the applicable City ordinances. Licensee shall conduct its activities so as to minimize any damage to City property and interference with the movement of motor vehicles in the areas where monitoring wells are installed. Adequate guards and warning signs or devices consistent with the requirements contained in the Manual on Uniform Traffic Control Devices will be provided by Licensee during construction. Monitoring wells shall not be installed below a depth of thirty (30) feet without express approval of the City and compliance with applicable City ordinances. Monitoring wells shall be protected by metal covers flush with grade and wells shall be constructed below ground level upon completion. Casings shall contain a locking device to prevent unauthorized access to wells. No subsurface water drawn from any well shall be stored on City premises. Well equipment shall conform to the description in Exhibit B attached hereto.

3. Indemnity: Licensee, in consideration for the grant of this license, agrees to defend and indemnify, and save the City, and its duly elected officials, employees and agents, harmless from any and all claims, demands, causes of action, damages, judgments, costs, attorney fees or expenses, of any sort or kind whatsoever, including all damages for any injuries to person or persons, including death, or to property, arising out of or in connection with the activities on the property by Licensee, its subcontractors, agents and employees, notwithstanding any possible negligence on the part of the City, its duly elected officials, agents or employees, whether sole, concurrent or otherwise.

5. Insurance: Licensee shall procure and maintain during the term of this agreement, and any extension thereof, commercial general liability, environmental hazard, property damage and motor vehicle liability insurance, protecting the City from all claims for personal injury, including death, and all claims for property destruction or damage, arising out of or in connection with Licensee's activities on the premises, written with limits of liability and coverages acceptable to City. Licensee shall also provide workers compensation insurance for all of its agents and employees who may be present on the property. Licensee shall require any subcontractor working in the City right-of-way to obtain comparable insurance.

6. Conformity with Environmental Regulations: Licensee shall not cause or create any environmental hazards on the property, nor violate any other governmental laws or regulations which may be applicable to its activities on the premises and shall obtain any and all licenses, permits or consents which may be required for its activities on the premises. Licensee shall insure that its activities do not interfere, directly or indirectly, with any City operations.

7. Change in Grade: If the City changes the grade of the right-of-way, or changes the location of the street surface, improvements, structures or appurtenances located thereon during the term of the license, or any extensions thereof, thereby necessitating work on or relocation of any of the wells, such work or relocation shall be at Licensee's sole cost and expense.

8. Restoration of Premises: Licensee will, at its own expense, promptly upon completion of the work restore the premises in their pre-existing condition and to the satisfaction of the Department of Public Works.

9. Termination: The City shall have the right to terminate this license at any time in the discretion of the Director of Public Works, if he determines that the use of the right-of-way by Licensee causes an undue danger to public health or safety, or if Licensee shall fail to comply with the requirements of this agreement, or any applicable City permit.

10. No Compensation: No compensation will be payable from the City to Licensee, nor will Licensee be required to pay City any rent or other fee for entry upon City premises, in accordance with this agreement.

11. Conflict of Interest: Licensee certifies that no member or officer of its corporation is an officer or employee of the City, or any of its boards or agencies, and further that no officer or employee of the City has any financial interest, direct or indirect, in this contract, nor is there any conflict of interest under state law.

12. Discrimination: The Licensee agrees not to discriminate on the basis of or because of the race, creed, color, national origin or ancestry, sex, religion, handicap, age, or political opinion or affiliation, against any person in connection with its activities under the license.

13. Assignment: This License may not be assigned to any other party, without the written consent of the City. City must approve any subcontractor performing work under this license.

14. Notices: Any notices given under this agreement shall be in writing and may be delivered in person or by facsimile transmission, to City, addressed to Howard Wright, City Attorney, 840 Boonville, Springfield, Missouri 65802, FAX: (417) 864-1551, or to Licensee, by delivery or facsimile addressed as set forth above.

16. Entire Agreement: This document and the exhibit attached hereto contains the entire agreement between the parties. modification, amendment, or waiver or any of the provisions of this agreement shall be effective unless in writing specifically referring hereto, and signed by both parties.

17. Applicable Law: This agreement and every question arising hereunder shall be construed or determined according to the laws of the State of Missouri and in litigation pertaining hereto venue shall be proper only in the Circuit Court of Greene County, Missouri.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed on the day and year first written above.

**ENVIRONMENTAL WORKS, INC.**

**CERTIFICATE OF DIRECTOR OF FINANCE**

I certify that the expenditure contemplated by this document is within the purpose of the appropriation to which it is to be charged and that there is an unencumbered balance of appropriated and available funds to pay therefor.

\_\_\_\_\_  
Mary Mannix, Acting Director of Finance

Approved as to Form:

\_\_\_\_\_  
Assistant City Attorney

By: \_\_\_\_\_

Name: \_\_\_\_\_

**CITY OF SPRINGFIELD, MISSOURI**

By: \_\_\_\_\_  
Bob Cumley, Assistant City Manager

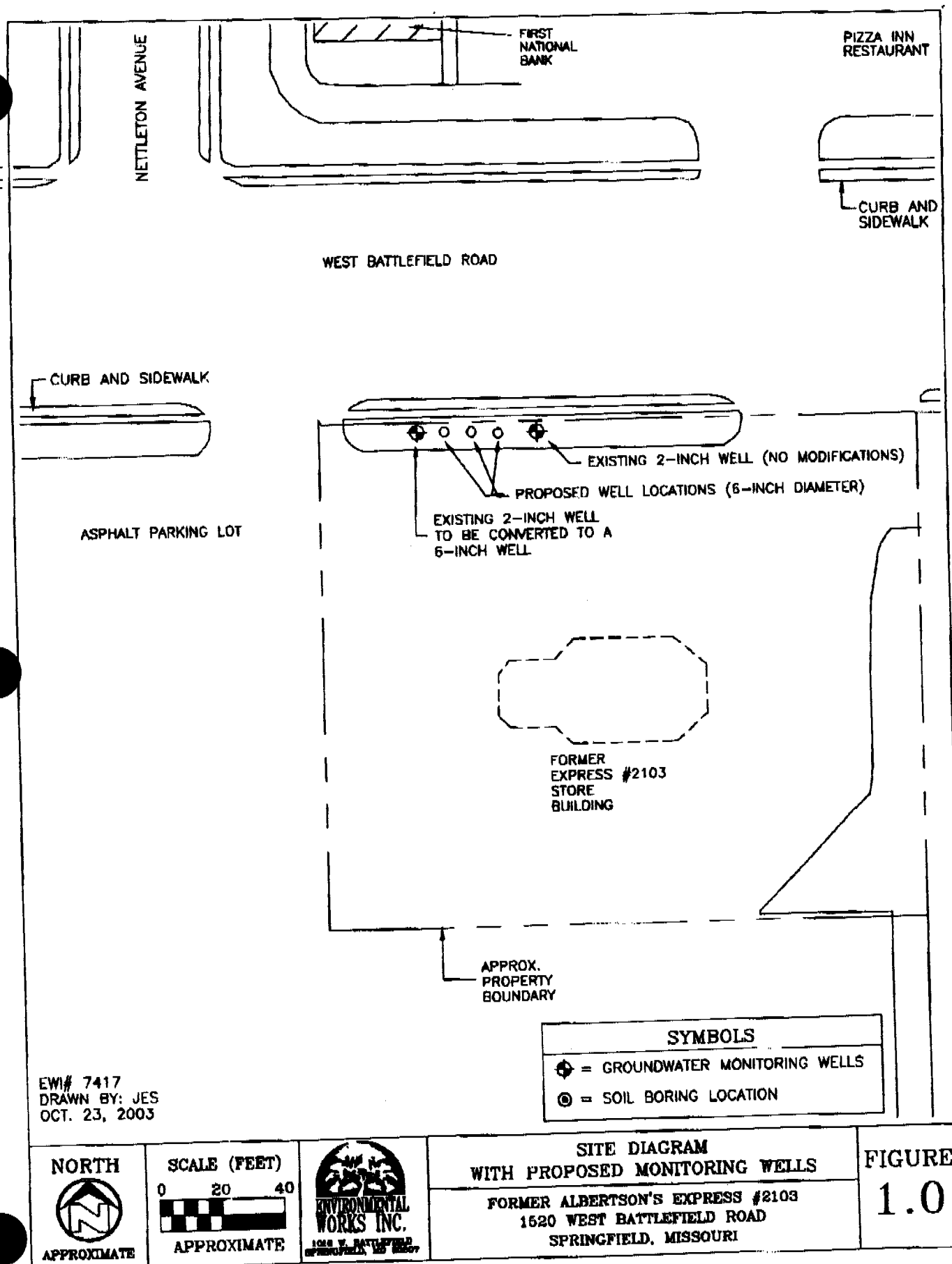


EXHIBIT A

**EXHIBIT B WILL BE ATTACHED  
TO THIS AGREEMENT  
PRIOR TO EXECUTION**

Aff. Agcy. Notified \_\_\_\_\_  
Emergency Required \_\_\_\_\_  
P. Hrngs. Required \_\_\_\_\_  
Fiscal Not Required \_\_\_\_\_  
Board Rec. Required \_\_\_\_\_

EXPLANATION TO COUNCIL BILL NO. 2003- \_\_\_\_\_

ORIGINATING DEPARTMENT: Public Works

PURPOSE: To authorize an agreement between the City of Springfield and Environmental Works, Inc., to install and maintain wells on public right-of-way for monitoring groundwater conditions.

BACKGROUND INFORMATION: A Smitty's gas station was once located at 1520 W Battlefield Rd. When the pumps and storage tanks were removed in the mid 1990's, it was discovered that some petroleum products had leaked into the surrounding soil. Warren Davis properties has since purchased the property, and has entered into an agreement with the Missouri Department of Natural Resources for monitoring and mitigation of contamination from petroleum products. Warren Davis properties has retained a consultant, Environmental Works, Inc., for the purpose of monitoring mitigating the gasoline or other volatile substances in the groundwater and soil by installation of monitoring wells, some of which will be on public right-of-way on the South side of West Battlefield Road, West of Nettleton Avenue.

REMARKS: The license agreement permits the consultant to install and maintain monitoring wells in the public right-of-way in locations and in a manner approved by a designated representative of the Director of Public Works.


FINANCIAL: Insurance is required of the licensee to protect the interests of the City of Springfield in connection with this project.

RECOMMENDATION: The City Traffic Engineer recommends approval of the license agreement to install and monitor the monitoring wells.

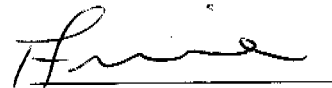
Submitted by:

  
City Traffic Engineer

Approved by:

  
Director of Public Works

Approved by:

  
City Manager